

HEALY & BAILLIE, LLP
Jeremy J. O. Harwood (JH 9812)
Jack A. Greenbaum (JG 0039)
Jana N. Byron (JB 6725)
Attorneys for Defendant
Proteinas Y Oleicos S.A. De C.V.
61 Broadway
New York, NY 10006-2701
(212) 943-3980

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HBC HAMBURG BULK CARRIERS
GMBH & CO. KG,

Plaintiffs,

-against-

PROTEINAS Y OLEICOS S.A. DE
C.V.,

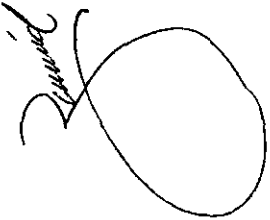
Defendants.

04 CV 6884 (NRB)

ECF CASE

**DECLARATION IN
SUPPORT OF MOTION
TO VACATE
ATTACHMENT**

ALEJANDRO BERMUDEZ CABRERA deposes and says:

1. I am President of the Administrative Council of Defendant Proteinas Y Oleicos S. A. de C. V. ("Proteinas") and authorized to make this declaration on Proteinas' behalf. This declaration is submitted in support of an application to vacate the maritime attachments of several electronic funds transfers ("EFT") frozen by Citibank and Bank of America. The underlying dispute arises out of a charter party which calls for arbitration in London.
- 

2. Proteinas is engaged in the business of producing and selling vegetable oil at its plants in Merida, Yucutan, Mexico and Celaya/Bajio, Mexico. Its sales contracts commonly are priced and payable in US Dollars at Proteinas' banks in Mexico. In order to make an EFT of U. S. Dollars to a bank in Mexico, it is necessary for payors to use a bank in the United States, or else for the payors' foreign bank to use an intermediary "correspondent" bank in the U. S. Similarly, Proteinas' banks in Mexico use intermediary banks in the United States.
3. On July 30, 2003, Proteinas issued standing payment instructions to its customers regarding where to remit payments with respect to products supplied at each of its plants. (Ex. A hereto)
4. For products supplied from Proteinas' plant in Merida, payment is to be made in U. S. Dollars at Proteinas' bank in Merida, BBVA Bancomer Mexico ("Bancomer"), via Bancomer's correspondent bank, JP Morgan Chase Bank in New York.
5. For products supplied from Proteinas' plant in Celaya/Bajio, payment is to be made in U. S. Dollars at Proteinas' bank in Bajio, Banco Del Bajio S. A. de C. V. ("Banco Bajio"), via Banco Bajio's correspondent, Bank of America NT & SA in Concord, California.
6. Proteinas does not have an account in JP Morgan Chase Bank or in Bank of America NT & SA.

7. Proteinás does not have an account in Citibank, where three of the EFTs in question were frozen. Further, Citibank is not designated in Proteinás' payment instructions and is not the correspondent bank for either of Proteinás' Mexican banks. Therefore, in each of the transactions at issue, Citibank can only have been the payor's bank, or the U. S. correspondent of the payor's foreign bank.

CITIBANK ATTACHMENTS

8. On or about September 20, 2004, Citibank froze an EFT of USD36,526.90 originated by Tron Hermanos S. A. de C. V. in Mexico, through its bank, Banco Santander International, for transfer to Proteinás' bank, Bancomer, via JP Morgan Chase. Banco Santander International routed the EFT through Citibank, where it was frozen. This transfer was to be in payment for purchases of soya oil from Proteinás' plant in Merida in September 2004.
9. On or about September 24, 2004, Citibank froze an EFT of USD11,968.01 originated by Cognis Corp. in Cincinnati, Ohio, for transfer to Proteinás' bank, Banco Bajío, via Bank of America in San Francisco, California. Cognis appears to have used Citibank directly to make this transfer, and the funds were frozen there. This transfer was to be in payment for purchases of distilled fatty acid from Proteinás' plant in Bajío.
10. On or about October 8, 2004, Citibank froze an EFT of USD342,968.43, originated by Pilgrims Pride S. A. de C. V. in Mexico, for transfer to

Proteinas' bank, Bancomer, via JP Morgan Chase Bank. Pilgrims Pride either used Citibank directly, or else Citibank was a correspondent of Pilgrims Pride's Mexican bank. This transfer was to be in payment for purchases of products from Proteinas' plant in Merida.

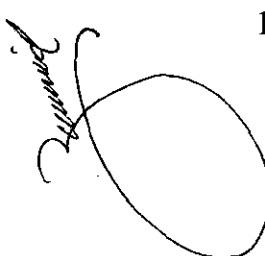
Bank of America Attachments.

11. On or about August 26, 2004, Bank of America froze USD53,682.21 originated by Malto Texo de Mexico S. A. de C. V. in Mexico, with its bank, Citibank, for transfer to Proteinas' bank, Banco Bajio, via Bank of America in San Francisco. This transfer was to be in payment for soya paste and soya oil from Proteinas' plant in Bajio in August 2004. It was not routed through Bank of America in New York.
12. On or about August 26, 2004, Bank of America froze USD100,000 that Scotiabank Inverlat S. A. was transferring to Proteinas' bank, Banco Bajio, via Bank of America in San Francisco. This represented a purchase of U. S. Dollars by Proteinas. It was not routed through New York.
13. On or about August 27, 2004, Bank of America froze USD229,138.93 originated by Cargill de Mexico S. A. de C. V. ("Cargill") for transfer to Proteinas' bank in Merida, Bancomer, via JP Morgan Chase bank. As appears in the accompanying declaration of Alejandro Jose Trava Lopez, Cargill initiated the transfer with its own bank, Bank of America in Miami, Florida. Bank of America was not the correspondent of Proteinas' bank; JP Morgan Chase was Bancomer's correspondent. This transfer was to be in

payment for the purchase of various products delivered to Cargill's affiliated company, Nutrimentos Agropecuarios Purina S. A. de C. V. ("NAPSA") from Proteinas' plant in Merida.

14. On or about August 27, 2004, Bank of America froze USD29,104.31 originated by Cargill in Mexico for transfer to Proteinas' bank, Banco Bajio, via Bank of America in San Francisco. As appears in Mr. Trava's declaration, Cargill initiated the transfer with its own bank, Bank of America in Miami. This transfer was to have been payment for purchases of various products by NAPSA from Proteinas' plant in Bajio. The transfer was not routed through New York.

15. On or about August 31, 2004, Bank of America froze USD33,539.43 originated by Cargill in Mexico for transfer to Proteinas' bank, Banco Bajio, via Bank of America in San Francisco. Cargill initiated this transfer with its own bank, Bank of America in Miami. This transfer was to have been payment for the purchase by another affiliate of Cargill, Agribrands Purina Mexico, S. A. de C. V., of soya paste from Proteinas' plant in Bajio. It was not routed through New York.



16. On or about September 15, 2004, Bank of America froze USD7,500 originated by Proteinas with Banco Bajio, for transfer to its attorneys' bank, HSBC, via Bank of America in Concord, California. It was not routed through Bank of America in New York.

17. On or about November 1, 2004, Bank of America froze USD8,170 originated by Proteinas with Banco Bajio, for transfer to Bank One, N. A. in Columbus, Ohio, via Bank of America in Concord, California. This was payment to a vendor, Duraloy Technologies, Inc., in Columbus Ohio. This transfer was not routed through New York.

Pursuant to 28 U. S. C. § 1746 (1), I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Merida, Yucatan, Mexico on December 20, 2004.



ALEJANDRO BERMUDEZ CABRERA